



February 11, 2003

HOUSE BILL No. 1661

DIGEST OF HB 1661 (Updated February 10, 2003 3:04 PM - DI 107)

Citations Affected: IC 16-28; IC 16-39.

Synopsis: Nursing home complaints. Allows a person who complained of an offense or deficiency by a health facility to have the results of the investigation reviewed. Provides that a health facility that does not provide health records of a deceased patient to a person entitled to the information commits a breach for noncompliance.

Effective: July 1, 2003.

Day

January 21, 2003, read first time and referred to Committee on Human Affairs.
February 10, 2003, amended, reported — Do Pass.

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HB 1661—LS 7178/DI 77+



February 11, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1661

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-28-4-7 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. ~~Upon request of the~~
3 ~~alleging party (a)~~ The director shall ~~report~~ **provide a written response**
4 to the alleging party or the alleging party's designated relative, friend,
5 or legal representative concerning the results of the investigation and
6 the action taken.

7 **(b) The written response under subsection (a) must inform the**
8 **alleging party of the following:**

9 **(1) That a copy of the surveyor notes and investigative report**
10 **of the results of the licensure inspection related to the**
11 **complaint is available upon request.**

12 **(2) The manner in which to request the information described**
13 **in subdivisions (1).**

14 **(3) The manner, including any time requirements, in which**
15 **the alleging party may request a review of the results of the**
16 **investigation.**

17 **(c) If a party requests a copy of surveyor notes or a copy of the**

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1 investigative report of results of a licensure inspection under
 2 subsection (b)(1), the state department shall provide a copy to the
 3 party not more than ninety (90) days after a request for a copy has
 4 been made.

5 (d) The state department shall adopt rules under IC 4-22-2 to
 6 provide for a review requested under this section for the
 7 reconsideration of the results of an investigation of an alleged
 8 breach under this article. The review must be conducted by
 9 individuals who were not involved in conducting or reviewing the
 10 initial investigation.

11 (e) The results of a review conducted under subsection (d) must
 12 be mailed to the alleging party not more than sixty (60) days after
 13 a request for a review has been made.

14 (f) If the state department determines under subsection (d) that
 15 inadequacies exist in an initial investigation, the state department
 16 shall order a reinvestigation. The results of a reinvestigation must
 17 be mailed to the alleging party after the reinvestigation is complete.

18 SECTION 2. IC 16-28-5-11 IS ADDED TO THE INDIANA CODE
 19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 20 1, 2003]: Sec. 11. A health facility licensed under IC 16-28 that does
 21 not provide health records within ten (10) working days of the
 22 request as required under IC 16-39-1-3 commits a breach that is
 23 classified as a noncompliance. The commissioner shall impose a
 24 remedy for a noncompliance under section 4 of this chapter.

25 SECTION 3. IC 16-39-1-3, AS AMENDED BY P.L.28-2002,
 26 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2003]: Sec. 3. (a) Health records may be requested by a
 28 competent patient if the patient is:

- 29 (1) emancipated and less than eighteen (18) years of age; or
- 30 (2) at least eighteen (18) years of age.

31 (b) If a patient is incompetent, the request for health records may be
 32 made by the parent, guardian, or custodian of the patient.

33 (c) Health records of a deceased patient may be requested by a
 34 coroner under IC 36-2-14-21 or by the personal representative of the
 35 patient's estate. If the deceased does not have a personal representative,
 36 the spouse of the deceased patient may make a request. If there is no
 37 spouse:

- 38 (1) a child of the deceased patient; or
 - 39 (2) the parent, guardian, or custodian of the child if the child is
 40 incompetent;
- 41 may make a request.

42 (d) A health facility licensed under IC 16-28 shall provide a

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- 1 complete copy of a health record requested under subsection (c)
- 2 not more than ten (10) working days after a request for records has
- 3 been received by the health facility.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1661, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 17, after "(c)" insert **"If a party requests a copy of surveyor notes or a copy of the investigative report of results of a licensure inspection under subsection (b)(1), the state department shall provide a copy to the party not more than ninety (90) days after a request for a copy has been made.**

(d)".

Page 2, line 6, delete "(d)" and insert "(e)".

Page 2, line 6, delete "(c)" and insert "(d)".

Page 2, between lines 8 and 9, begin a new paragraph and insert:

"(f) If the state department determines under subsection (d) that inadequacies exist in an initial investigation, the state department shall order a reinvestigation. The results of a reinvestigation must be mailed to the alleging party after the reinvestigation is complete."

Page 2, line 11, after "facility" insert **"licensed under IC 16-28"**.

Page 2, line 12, delete "as required under IC 16-39-1-3(c)" and insert **"within ten (10) working days of the request as required under IC 16-39-1-3"**.

Page 2, line 13, delete "noncompliance under this chapter." and insert **"noncompliance. The commissioner shall impose a remedy for a noncompliance under section 4 of this chapter."**

Page 2, after line 13, begin a new paragraph and insert:

"SECTION 3. IC 16-39-1-3, AS AMENDED BY P.L.28-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Health records may be requested by a competent patient if the patient is:

- (1) emancipated and less than eighteen (18) years of age; or
- (2) at least eighteen (18) years of age.

(b) If a patient is incompetent, the request for health records may be made by the parent, guardian, or custodian of the patient.

(c) Health records of a deceased patient may be requested by a coroner under IC 36-2-14-21 or by the personal representative of the patient's estate. If the deceased does not have a personal representative, the spouse of the deceased patient may make a request. If there is no spouse:

- (1) a child of the deceased patient; or
- (2) the parent, guardian, or custodian of the child if the child is

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incompetent;
may make a request.

(d) A health facility licensed under IC 16-28 shall provide a complete copy of a health record requested under subsection (c) not more than ten (10) working days after a request for records has been received by the health facility."

and when so amended that said bill do pass.

(Reference is to HB 1661 as introduced.)

SUMMERS, Chair

Committee Vote: yeas 13, nays 0.

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